

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN S. HART,  
Plaintiff,

v.

COUNTY OF SONOMA, et al.,  
Defendants.

Case No. 22-cv-07674-TLT (PR)

**ORDER OF DISMISSAL**


Plaintiff is a prisoner presently housed at the New Castle Correctional Facility in New Castle, Indiana. He initiated this civil rights action against County of Sonoma, County of Lake, City of Santa Rosa, and State of California seeking the dismissal of unspecified felony convictions pursuant to California Penal Code § 1203.4. He also moves to proceed *in forma pauperis*.

Plaintiff's claim cannot be brought in a federal civil rights action. 28 U.S.C. § 2254 empowers the Court to "entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court ... on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). A petition for habeas corpus is a prisoner's sole judicial remedy when attacking "the validity of the fact or length of ... confinement." *Preiser v. Rodriguez*, 411 U.S. 475, 489-90 (1973); *Nettles v. Grounds*, 830 F.3d 922, 929 (9th Cir. 2016). Here, it appears that plaintiff is challenging the fact of his sentence. Thus, his claim is appropriately raised in a habeas action.

Accordingly, plaintiff's applications to proceed *in forma pauperis*, Dkt Nos. 2 & 9, are DENIED, and this case is DISMISSED without prejudice to plaintiff filing a petition for writ of habeas corpus.

IT IS SO ORDERED.

Dated: June 27, 2023

  
TRINA L. THOMPSON  
United States District Judge